

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM SEPTEMBER 16, 2009
OPEN SESSION

MINUTES OF SEPTEMBER 16, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN JEFFERSON, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of September 16, 2009, convening at 9:40 A.M. and adjourning at 3:44 P.M., EB Council Chambers, 2nd Floor, 1221 Elmwood Park Blvd., Jefferson, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Skrmetta welcomed everyone to Jefferson Parish and thanked his Staff and wife for their hard work in helping to make the reception and meeting a success.

Commissioner Boissiere thanked Council Chairman Thomas Capella for allowing us to use his chambers.

Commissioner Field announced that Commissioner Boissiere and Council Chairman Thomas Capella were high school schoolmates.

Commissioner Holloway announced that the December 9, 2009 B&E will be held in Lake Charles, Louisiana.

Staff Attorney Amanda Smith reminded everyone to sign the swearing in cards as well as the sign-in sheet when they come up to speak.

Mrs. Smith also announced that the Public Utilities Section of the State Bar Association is planning an Ethics and Professionalism CLE for the afternoon of November 9, 2009, location to be determined at a later date.

Ex. 2 Possible Executive Session pursuant to La. R.S. 42:6:1 to discuss Executive Secretary position.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 3 Discussion and Possible vote on Executive Secretary position.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to employ Eve Kahao Gonzalez as Executive Secretary.

Ex. 4 **T-30716** - My Vac, LLC. (Jennings, Louisiana), ex parte. In re: Application to amend and expand the authority of common carrier certificate 7013-A to include the transportation of regulated non-hazardous waste by vacuum trucks and lifting the restrictions on end dump waste, statewide.

On motion of Commissioner Holloway, seconded by Commissioner Field, with Commissioners Boissiere and Campbell concurring, and Commissioner Skrmetta opposing, the Commission voted to accept the ALJ Recommendation and deny My Vac's request for statewide authority, but grant authority in the Acadiana Parishes, as limited by the restrictive amendment against the transportation of regulated non-hazardous solid waste and commodities via dump trucks originating in the parishes of St. John the Baptist, St. Charles and St. James; however, the authority will not be issued until all current offenses are cleared.

Ex. 5 **T-30593** - Deep South Vacuum Service, LLC (Broussard, Louisiana), ex parte. In re: Application for a common carrier certificate authorizing the transportation of solid and liquid waste, over irregular routes within the State of Louisiana.

PASSED

Ex. 6 **T-30880** - Louisiana Public Service Commission vs Renae G. Stanford dba Stanford Truck Line (Iota, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority on five counts; one allegedly occurring on or about May 14, 2008, two allegedly occurring on or about May 16, 2008, and two allegedly occurring on or about May 30, 2008.

In re: Request for Reconsideration.

PASSED

Ex. 7 **T-30960** - Louisiana Public Service Commission vs Frederick Wilson Towing Co., Inc. (New Orleans, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, and General Order dated October 2, 2008 while operating under LPSC authority 6703, for no disclaimer on invoice allegedly having occurred on or about March 29, 2009.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) find Frederick Wilson Towing Co., Inc. guilty of failing to have the required complaint notification disclaimer on the towing invoice as mandated by the Commission's General Order dated October 2, 2008. 2) Impose a fine of \$500 upon Frederick Wilson Towing Co., Inc., which fine must be paid to the Commission within fifteen (15) days of the issuance of this Order. 3) Reassess the \$250 previously suspended portion of the fine in Order No. T-30444 Frederick Wilson Towing Co., Inc., as the suspension was conditioned on the Carrier not committing any additional violations within twelve months of the date of the Order T-30444 which was April 11, 2008. The carrier has failed to meet this condition. The previously suspended \$250 must be paid to the Commission within fifteen (15) days of the issuance of the Order.

Ex. 8 **R-30579** – Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment “A”, Section E 4. ***In addition, the Commission will review and assess the entire General Order and compare the economic studies performed in 1999 and the economic study recently completed and submitted to the Commission on July 10, 2008, by the Towing & Recovery Professionals of Louisiana, Inc., to review all rates, including but not limited to all hourly rates.***

In re: Discussion and possible vote on proposed order.

PASSED

Ex. 9 **U-31099** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application to flow through to retail rates the retail effects of credits and payments resulting from FERC Opinions Nos. 468 and 468-A and related orders.

In re: Discussion and possible vote to hire outside counsel and consultant.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to retain the firm of J. Kennedy & Assoc., Inc. to assist Staff as outside consultants in this matter for a budget of \$49,000 with expenses not to exceed 15%. Commissioner Holloway offered an amendment to specifically limit this engagement to the issues and relief requested in EGSL's application. If other issues arise during the course of this proceeding that are outside the application and the Commission finds it necessary to retain outside counsel or consultants, full Commission approval must be granted. All Commissioners agreed to this amendment.

Commissioner Field offered a motion to retain the firm of Stone Pigman to assist Staff as outside counsel in this matter for a budget of \$87,500 with expenses not to exceed \$8,750. This motion died for lack of a second.

Commissioner Skrmetta offered a motion to direct the parties to attempt a one day mediation. This motion died for lack of a second.

Commissioner Field offered a substitute motion to hire Stone Pigman and direct the parties to engage in mediation. This motion died for lack of a second.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, with Commissioners Skrmetta and Campbell concurring and Commissioner Field opposing, the Commission voted to direct Staff and outside consultant to look at this application and come back in 30 days with a report as to whether they will need outside counsel.

Ex. 10 **U-21453, U-20925, U-22092 Sub J** - Entergy Gulf States, Inc., ex parte. In re: Request for the approval of the Jurisdictional Separation Plan for Entergy Gulf States, Inc.

In re: Motion of Entergy Gulf States, Inc. for Immediate Review of Interlocutory Ruling.

Commissioner Field offered a motion to deny Entergy Gulf States, Inc.'s Motion for Immediate Review of Interlocutory Ruling.

Commissioner Skrmetta offered a substitute motion to grant Entergy Gulf States, Inc.'s Motion for Immediate Review of Interlocutory Ruling. Commissioner Holloway seconded this motion, however Commissioners Field, Boissiere and Campbell objected. By a vote of three to two, this motion failed to pass.

Commissioner Holloway offered a motion to stay the docket until the FERC makes its ruling. Commissioner Skrmetta seconded this motion, however Commissioners Field, Boissiere and Campbell objected. By a vote of three to two, this motion failed to pass.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioner Boissiere concurring and Commissioners Skrmetta and Holloway opposing, the Commission voted to deny Entergy Gulf States, Inc.'s Motion for Immediate Review of Interlocutory Ruling and proceed with discovery.

Ex. 11 **U-30835 c/w U-30836** - CenterPoint Energy Arkla, ex parte. In re: RSP Review for the 12 Month Period Ending June 30, 2008. **Consolidated with** CenterPoint Energy Entex, ex parte. In re: RSP Review for the 12 Month Period Ending June 30, 2008.

In re: Discussion and Possible vote on Stipulated Agreement.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Stipulated Settlement as filed into the record.

Ex. 12 **U-31066** – Dixie Electric Membership Corporation, ex parte. In re: Request for approval to implement a Storm Recovery Rate Rider.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Settlement.

On motion of Commissioner Field, seconded by Commissioner Holloway, with Commissioners Skrmetta and Boissiere concurring and Commissioner Campbell temporarily absent, the Commission voted to accept the Staff Recommendation and adopt the Stipulated Settlement as filed into the record.

Ex. 13 **U-30422 Sub A** – Entergy Gulf States, Inc., ex parte. In re: Application of Entergy Gulf States, Inc., for Approval to Enter into Contract for the Purchase of Electric Power from Entergy Arkansas, Inc., Sourced from the Ouachita CCGT Facility and Request for Timely Treatment.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Settlement.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Uncontested Stipulated Settlement and Term Sheet as filed into the record.

- Ex. 14 **U-20925 (RRF-2004) (Retail Effects of FERC Interruptible Order)** – Entergy Louisiana, Inc., ex parte. In re: Application of Entergy Louisiana, Inc. for a change in its rates and charges so that those rates and charges will be sufficient to permit the Company to recover all of its costs, and to provide the Company with a reasonable opportunity to earn an increased rate of return on its rate base that is just and reasonable and that reflects accurately the Company’s cost of capital.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Settlement.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and confirm and approve the unopposed proposed stipulation as filed into the record.

- Ex. 15 **U-30958** – CLECO Power LLC, ex parte. In re: Application of Cleco Power LLC for Certificate of Public Convenience and Necessity for: (i) Authorization for Cleco Power LLC to enter into a proposed power purchase agreement with NRG Power Marketing LLC; (ii) Authorization for Cleco Power LLC to recover in its jurisdictional rates the charges that it pays under the power purchase agreement; and (iii) Expedited treatment.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve certification of the contract, as modified, and a finding that the contract serves the public interest.

- Ex. 16 **U-30773** - Diversion Water Co, LLC, ex parte. In re: Request for increase in water rates for its customers in Livingston, Ascension and St. Helena Parishes

**In re: Stipulated Agreement
July Ex. 7**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Stipulated Settlement as read into the record.

- Ex. 17 **R-28575** – LPSC, ex parte. In re: Study of the formulas and methodologies used by jurisdictional water and/or wastewater utilities in calculating and assessing “system development”, “capacity reservation, “impact tie-in” and similar fees and possible development of new and/or uniform formulas, methodologies and guidelines for calculating such fees. **Consolidated With R-27633** – LPSC, ex parte. In re: Study of System Development Charge – pursuant to the Commission’s directive, Staff’s studying multiple issues surrounding the system development charge.

In re: Discussion at the request of Commissioner Skrmetta regarding possible publication of modifications to the General Order.

PULLED

- Ex. 18 **R-30480** – LPSC, ex parte. In re: Review of the Existing State Universal Service Fund as Established by LPSC General Order dated April 29, 2005, as amended May 18, 2005.

In re: Request by Henderson Ridge for budget increase for additional work and monitoring of SUSF.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize Henderson Ridge’s additional budget of \$27,730 with expenses of \$6,533.90 for previously incurred and future expenses.

Ex. 19 **S-31098** - Southwest Louisiana Electric Membership Corporation, ex parte. In re: Request for Non-Opposition to Loan Funds.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue the letter of non-opposition subject to the conditions read into the record.

Ex. 20 **S-30891** - Everycall Communications, Inc., ex parte. In Re: Application for Designation as an Eligible Telecommunications Carrier.

On motion of Commissioner Field, seconded by Commissioner Holloway, with Commissioners Campbell and Skrmetta concurring and Commissioner Boissiere temporarily absent, the Commission voted to accept the Staff Recommendation and grant the carrier ETC designation.

Ex. 21 **S-30982** - Tennessee Telephone Services, L.L.C., ex parte. In Re: Application for Designation as an Eligible Telecommunications Carrier.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the carrier ETC designation.

Ex. 22 **S-31003** - Triarch Marketing d/b/a Triarch Communications, ex parte. In Re: Application for Designation as a Non-Rural Eligible Telecommunications Carrier.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the carrier ETC designation.

Ex. 23 **S-31090** - Fast Phones, Inc., ex parte. In Re: Application for Certification as an Eligible Telecommunications Carrier.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, with Commissioners Boissiere and Holloway concurring and Commissioner Field temporarily absent, the Commission voted to accept the Staff Recommendation and grant the carrier ETC designation.

Ex. 24 **S-31074** - CenterPoint Energy, ex parte. In re: Application for approval of the abandonment of a portion of its natural gas facilities pursuant to General Order R-30301.

In re: Discussion and Possible vote on proposed order.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Proposed Order issued September 4, 2009, granting the application for abandonment.

Ex. 25 Updated report by the electric and gas utilities on their hedging practice.

At the request of Commissioner Field.

The following company representatives gave reports and answered questions on hedging practices: Terry Spruill with Cleco, Karen Freese and Michelle Thiery with Entergy, Ken Armstrong with CenterPoint, Kenny Malter with Atmos and Tom Allen with Suez Energy America.

Commissioner Field directed Staff to get together with Suez Energy and with Entergy, Cleco and Swepeco to determine what, if anything, the Commission needed to do to ensure our rules are progressive enough to allow hedging.

Commissioner Holloway requested Entergy to report back next month on their electricity

hedging practices.

Ex. 26 Report on purchase of natural gas by regulated utilities.

At the request of Commissioner Campbell.

Discussed with Ex. 25.

Ex. 27 Possible Executive Session pursuant to La. R.S. 42:6.1 to discuss litigation strategy in the following cases: In re: FRSA (R-30715) LRA vs. LPSC -19th JDC Suit No. 573637 & UP V LPSC – 19th JDC Suit No. 573638 (consolidated); Crossings (R-30712) LRA vs. LPSC JSDC Suit No. 579801, UP vs. LPSC – US MDLa Civil Action NO. 09-396-JVP-SCR.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 28 Possible Executive Session pursuant to La. R.S. 42:6 to discuss the budget.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 29 1) Reports
2) Resolutions
3) Discussions

Commissioner Skrmetta requested a report on the status of Entergy Services, Inc.'s 2009 Request for Proposals for Long-Term Supply Side Resources. Staff Attorney Melissa Watson reported that the RFP was on schedule and that Staff had provided written comments to Entergy Services, Inc. on September 14, 2009 and that copies had been sent to Commissioners. The comments are available on Entergy Services, Inc.'s public RFP website.

Commissioner Skrmetta directed Staff to make a recommendation regarding how the Commission can add creditors as solicitors to the Do Not Call Order.

Ex. 30 Discussion and possible opening of docket on utility advertising.

At the request of Commissioner Campbell.

Commissioner Campbell directed Staff to look into whether recent utility advertising practices should be prohibited by the Commission.

Ex. 31 Enforcement of new rule concerning closure of private rail crossings.

At the request of Commissioner Campbell.

This matter was handled in Executive Session with Ex. 27.

Ex. 32 **U-28155 Sub A** – Louisiana Public Service Commission, ex parte. In re: Investigation of the Continued Participation of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, LLC in the Independent Coordinator of Transmission ("ICT") Arrangement, Potential Enhancements to the ICT, Potential Alternatives to the ICT, the Impact of Alternatives on LPSC Jurisdictional Ratepayers.

In re: Approval of Louisiana's participation in the proposed Entergy Regional State Committee.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to support the formation of an Entergy Regional State Committee in concept and to authorize participation by the LPSC. The Commission's support of the formation of the E-RSC will be contingent upon the establishment of a satisfactory voting structure and the adoption of appropriate by-laws. The Commission's participation shall not impair or transfer the jurisdiction or authority of this Commission. It was further ordered that interested parties be given 15 days to file comments in this docket regarding any proposed E-RSC by-laws, particularly on the voting structure and decision-making provisions.

Ex. 33

U-30975 - Southwestern Electric Power Company, ex parte. In re: Joint Application of Cleco Power LLC and Southwestern Electric Power Company for: (I) Authorization to Enter into a Proposed Agreement with North American Coal to Purchase the Permit, Leases, and Reserves Associated with the Oxbow Mine; (II) Authorization to Include the Permit, Leases, and Reserves in Jurisdictional Rate Base and Related Rate Making Treatments; and (III) Expedited Treatment.

In re: Discussion and Possible Vote on Stipulated Settlement.

At the request of Commissioner Campbell

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Proposed Uncontested Stipulated Settlement entered into by the Staff and the Companies, subject to the ratepayer protections and reporting requirements read into the record.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to take an item up out of order.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to require Staff to include a report on the briefing sheet for any docket with an outside counsel or consultant assigned that involves potential litigation at the PSC level the amount billed to date and for current billing cycle. It was further ordered that the same rule would apply to the opposing party (s) in a given case.

Ex. 34

U-29203 - Entergy Gulf States, Inc. and Entergy Louisiana, Inc., ex parte. In re: Joint Application of Entergy Gulf States, Inc. and Entergy Louisiana, Inc. for Interim and Permanent Recovery in Rates of Costs Related to Hurricanes Katrina and Rita.

In re: Ratification of the Actions taken at the Louisiana Utilities Restoration Corporation September 1, 2009 Board of Directors Meeting.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and ratify each of the actions taken by the LURC Board.

Ex. 35

U-31108 - Southeastern Louisiana Water & Sewer Company, LLC (Mandeville, LA), ex parte. In re: Request for an increase in rates and charges for water and sewerage service.

At the request of Commissioner Skrmetta.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to grant Southeastern Louisiana Water & Sewer Company, LLC an interim rate increase of 11.45%, contingent upon SELa's production to Staff of proof of SELa's compliance and good standing with all applicable health and environmental regulations promulgated by the Louisiana Department of Environmental Quality, the Louisiana Department of Health and Hospitals and the United States Environmental Protection Agency, and upon

Staff's review and approval of such proof of compliance and good standing. If for any reason Staff should determine that SELa is not significantly compliant with any applicable DEQ, DHH or EPA regulations, or with any provision of the Federal Clean Water Act and of all applicable state and federal laws, this interim rate increase shall have no effect.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to adjourn the meeting.

MEETING ADJOURNED

The next Business and Executive Session will be held October 14, 2009 at 9:00 a.m. in Baton Rouge, Louisiana.